

CONFIDENTIAL

Mirant Americas Energy Marketing, LP (Mirant) Confirmation Agreement

Date: May 22, 2001

The following shall confirm the agreement reached on May 22, 2001 between DWR ("Buyer" or "Purchaser") and Mirant Americas Energy Marketing, LP ("Seller" or "Mirant"):

Buyer: California Department of Water Resources 1416 9th Street, Room #841 Sacramento, CA 95814 Attn: Confirmation Department Phone: 916 574 0161 Fax: 916 574 2569 Reference #: Scheduling:	Seller: Mirant Americas Energy Marketing LP 1155 Perimeter Center West Suite 130 Atlanta, GA 30338 Attn: Confirmation Department Phone: 678 579 3376 Fax: 678 579 5755 Reference #: Scheduling: 678 579 3009
Quantity (MW): 500 MW Price (\$/MWh): \$148.65 Start date: June 1, 2001 Day of Week: Monday to Saturday	Quantity (MWhrs): Type of energy: Firm energy, WSPP Schedule C End date: December 31, 2002 Hours: HE 0700 through HE 2200
Delivery Point: NP 15 or the bus at which Seller's facility interconnects with the transmission system of PG&E, at Seller's option Scheduling: Energy shall be scheduled with the California Independent System Operator ("ISO") as a Schedule Coordinator to Schedule Coordinator transaction. Scheduling timelines shall be consistent with ISO tariffs, protocols, operating procedures, and scheduling practices. Special Provisions: See Exhibit A attached hereto. Enabling Agreement: Sales and purchases hereunder are subject to the WSPP Agreement, as amended and supplemented from time to time, the Letter Agreement for Transactions under WSPP Agreement dated April 24, 2001 between DWR and Mirant, including Attachment A Attachment to WSPP Confirmations, and the Additional Terms and Conditions set forth in Exhibit A to this Confirmation. If the WSPP Agreement is amended during the term of this Transaction, such changes shall not apply to this Transaction unless Seller and Buyer agree in writing. As to any conflict between the WSPP Agreement and this Confirmation, this Confirmation shall control. Other: If the above accurately reflects your understanding of our agreement, please indicate your approval by signing a copy of this letter and returning it via fax to Mirant Americas Energy Marketing LP. Failure to object to the terms in this letter or respond within two business days shall be deemed acceptance.	

California Department of Water Resources
 Separate and apart from its duties and responsibilities
 With respect to the State Water Resources Development
 System, in its role as California Electric Resources
 Scheduling (CERS) under the authority of SB 7X and AB 1X
 By: _____

Title: _____

Mirant Americas Energy Marketing, LP
 By: Mirant Americas Development, Inc.
 Its General Partner

By:  _____

Title: Vice President

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Attn: Confirmation Department	Attn: Confirmation Department
Phone: 916 574 0161	Phone: 678 579 3376
Fax: 916 574 2569	Fax: 678 579 5755
Reference #:	Reference #:
Scheduling:	Scheduling: 678 579 3009
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Special Provisions:	See Exhibit A attached hereto.
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California Department of Water Resources
Separate and apart from its duties and responsibilities
With respect to the State Water Resources Development
System, in its role as California Electric Resources
Scheduling (CERS) under the authority of SB 7X and AB 1X
By: [Signature]

Title: Chief, CERS OPERATIONS

Mirant Americas Energy Marketing, LP
By: Mirant Americas Development, Inc.
Its General Partner

By: _____

Title: _____

Exhibit A
Additional Terms and Conditions

1. Additional Credit Terms and Conditions.

a. Purchaser's obligation to make payments hereunder shall be limited solely to the Department of Water Resources Electric Power Fund established by Section 80200 of the Water Code (the "Fund"). No liens on or pledges or assignments of the Fund are granted hereunder. Any liability of Purchaser arising in connection with this Confirmation Agreement or any claim based thereon or with respect thereto, including, but not limited to, any Termination Payment arising as the result of any breach or Event of Default under this Confirmation Agreement, and any other payment obligation or liability of or judgment against Purchaser hereunder, shall be satisfied solely from the Fund. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA ARE OR MAY BE PLEDGED FOR ANY PAYMENT UNDER THIS CONFIRMATION AGREEMENT. Revenues and assets of the State Water Resources Development System shall not be liable for or available to make any payments or satisfy any obligation arising under this Confirmation Agreement. Section 27 of the WSPP Agreement shall not apply to either Purchaser or Seller.

b. Notwithstanding anything to the contrary in the WSPP Agreement, this Confirmation Agreement shall be treated as a stand-alone transaction separate and distinct agreement from all other Confirmation Agreements. Any Event of Default with respect to this Confirmation Agreement will not cause an Event of Default with respect to any other Confirmation Agreement and vice versa. This Confirmation Agreements shall not be netted against any other Confirmation Agreement and vice versa.

c. Payments under this Confirmation Agreement shall constitute an operating expense of the Fund payable prior to all bonds, notes or other indebtedness secured by a pledge or assignment of all revenues under any obligation entered into by the Purchaser, and rights to receive the same, and moneys on deposit in the Fund and income or revenue derived from the investment thereof (the "Trust Estate") or payments to the general fund. Purchaser shall not provide in any power purchase agreement payable from the Trust Estate for (i) collateral or other security or credit support with respect thereto, (ii) a pledge or assignment of the Trust Estate for the payment thereof, or (iii) payment priority with respect thereto superior to that of Seller, without in each case offering such arrangements to Seller.

d. In accordance with Section 80134 of the Water Code, Purchaser covenants that it will, at least annually, and more frequently as required, establish and revise revenue requirements sufficient, together with any moneys on deposit in the Fund, to provide for the timely payment of all obligations which it has incurred, including any payments required to be made by Purchaser pursuant to this Confirmation Agreement. Purchaser shall prepare audited financial statements and provide copies thereof to Seller at least annually. As provided in Section 80200 of the Water Code, while any obligations of Purchaser pursuant to this Confirmation Agreement remain outstanding and not fully performed or discharged, the

rights, powers, duties and existence of Purchaser and the CPUC shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the Seller under this Confirmation Agreement.

- e. Purchaser will receive, no later than June 1, 2001, an opinion from the General Counsel to the Purchaser that this Confirmation Agreement is enforceable.
- f. Seller shall have the right, but not the obligation, to terminate this Confirmation Agreement without recourse against Purchaser for any Termination Payment or other costs and without any further obligation or liability of either Seller or Purchaser, within the 30 day period following (i) September 30, 2001 if prior to such date Purchaser has not issued bonds rated at least BBB- or better by S&P or Baa3 or better by Moody's, or (ii) the failure of Purchaser to maintain at least one such rating for a period of thirty (30) days. If Purchaser determines for any reason not to rely on the ratings on its bonds, including but not limited to, any determination not to issue bonds, the foregoing sentence shall not apply and instead Seller shall have the right, but not the obligation, to terminate this Confirmation Agreement without recourse against Purchaser for any Termination Payment or other costs and without any further obligation or liability of either Party A or Party B, within the 30 day period following (i) September 30, 2001 if prior to such date Purchaser has not obtained a rating of BBB- or better by S&P or Baa3 or better by Moody's, based on the ability of the Fund to pay its obligations under this Confirmation Agreement, or (ii) the failure of Purchaser to maintain at least one such rating for a period of thirty (30) days.

2. Payment. The billing period for transactions shall be two (2) weeks, such that payments for amounts are due and payable on the fifteenth (15th) and the thirtieth (30th) day of each month; provided Seller delivers an invoice to Purchaser no later than three (3) days prior to such payment date. The remainder of the billing and payment terms of the WSPP Agreement shall apply to this Confirmation Agreement.

3. Choice of Law/Waiver of Sovereign Immunity Defense. This Confirmation Agreement and the parties' obligations hereunder shall be governed by California law, without regard to the conflicts of law rules thereof. California law authorizes suit based on contract against the State of California or its agencies, and Purchaser agrees that it will not assert any immunity it has as a State agency against lawsuits filed in State courts.

4. Uncontrollable Force. The provisions of Section 10 of the WSPP Agreement shall apply to this transaction. In addition, the unavailability of natural gas (other than as a result of the price thereof or the failure of Seller to arrange for the firm transportation thereof) required by Seller or its affiliated companies to generate all or a portion of the Contract Quantity shall be deemed Uncontrollable Force.

5. Loss or Reduction of Energy Supply. Seller shall have the right to suspend deliveries under this Confirmation Agreement if it loses all or a portion of its energy supply through an act of eminent domain or if the State (or the Governor in exercising his emergency powers) otherwise commandeers the generating facilities owned by Seller's affiliates located in the state of California. Seller shall also have the right to suspend deliveries under this Confirmation due to a

bankruptcy of one or more of its affiliated generating companies located in the state of California. If any such suspension lasts more than sixty days, either Party shall have the right to terminate this Agreement. Any termination under this paragraph shall not be deemed an Event of Default by Seller, and Seller will not owe Purchaser a Termination Payment.

6. Reasonableness of Contract Price/Change in Rates: Purchaser agrees that the Contract Price of this transaction is just and reasonable and that it shall not dispute the reasonableness of any rates or charges under this Confirmation Agreement. The terms and conditions and the rates for service specified herein shall remain in effect for the term of the transaction, and shall not be subject to change through application to the Federal Energy Regulatory Commission by either Party, including the State of California and any of its agencies or any affiliate of the Seller, pursuant to the provisions of Section 205 or 206 of the Federal Power Act. Each of Seller and Purchaser expressly agrees that it will not make any filings under either Section 205 or Section 206 of the Federal Power Act to revise this rate schedule. If, however, a third party should make such a filing, the proponent will be required to meet the public interest standard as expressed in the *Mobile-Sierra* doctrine under Section 206 of the Federal Power Act and *Potomac Elec. Power Co. v. FERC*, 210 F.3d 403, 409-10 (D.C. Cir. 2000). Each of Seller and Purchaser expressly retains its rights to protest or otherwise challenge any such revisions or filings.

7. Event of Default. In addition to the provisions of Section 22 of the WSPP Agreement, it shall be an Event of Default with respect to Purchaser if (i) a State law or regulation of any State agency becomes effective that would not permit the Seller to recover all payments due under this Confirmation Agreement, including, but not limited to, payment of a Termination Payment or (ii) the Department does not meet the terms, conditions, or covenants contained in this Confirmation Agreement and such failure shall continue for a period of ten (10) days after written notice from the Seller.

8. Material Adverse Change. The Contract Price shall be increased to account for the effect of any liability, loss, cost, damage and expense, including gross-up, with respect to payments under this Confirmation Agreement arising out of a tax or other imposition enacted by the State or any agency thereof after the date of this Confirmation Agreement that is not of general applicability and is instead directed at the generation, sale, purchase, ownership and/or transmission of electric power, natural gas and/or other utility or energy goods and services. The Purchaser shall receive a credit against such Contract Price for reduction in or tax credit with respect to any such tax or imposition enacted by the State or any agency thereof after the date of this Confirmation Agreement. The Purchaser shall not be responsible for any other costs resulting from actions taken by any governmental entity in the exercise of its governmental authority that has the effect of increasing Seller's costs of performing under this Confirmation Agreement; provided, however, that the Purchaser shall pay any increased costs of the Seller which arise as the result of any direct or indirect action taken or caused to be taken by the State or any agency thereof, for the purpose of reducing or effectively reducing payments due hereunder.

9. Additional Representation. In addition to the representations set forth in Section 37 of the WSPP Agreement, Purchaser represents that, for the duration of the transaction, except for sales or exchanges of blocks of surplus energy which exceed the amount necessary to supply Purchaser's retail end use customers, the energy purchased hereunder will be resold only to end

use customers or to an entity which shall directly deliver the energy for consumption by end use customers.

10. Termination Payment. For the purposes of this Confirmation Agreement, Section 22.3(c) of the WSPP Agreement shall be deemed to provide as follows: "The Termination Payment shall be (i) in the case of Purchaser as the Non-Defaulting Party, the present value of the positive difference, if any, of (A) payments under a replacement contract referred to in Section 22.3(a) and (B) payments under this Confirmation Agreement, or (ii) in the case of Seller as the Non-Defaulting Party, the present value of the positive difference, if any, of (A) payments under this Confirmation Agreement and (B) payments under a replacement contract referred to in Section 22.3(a), in each case using the Present Value Rate referred to in Section 22.3(b)." A Non-Defaulting Party shall not be required to make a Termination Payment. For all purposes of Section 22.3, notwithstanding any reference to three Business Days, a Termination Payment shall be paid no later than one hundred eighty (180) days after receipt of written notice of termination, which amount shall bear interest at the Present Value Rate from the time notice of termination was received until paid.

11. Assignment. In addition to the provisions of Section 14 of the WSPP Agreement, the Purchaser may assign this Confirmation Agreement to the bond trustee as security in connection with the issuance of the Purchaser's bonds, provided that the creditworthiness of any person who assumes Purchaser's obligations under this Confirmation Agreement is comparable to or higher than that of Purchaser. Such bond trustee shall not be required to assume all of the obligations of the assignor and to be bound by all of the provisions and conditions of the WSPP Agreement and this Confirmation Agreement unless the trustee undertakes to directly perform the Purchaser's obligations under this Confirmation Agreement.

12. Confidentiality. In addition to the provisions of Section 30, the Purchaser may disclose the terms hereof to its employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential.

13. Miscellaneous. Notwithstanding the provisions of Section 35, the Purchaser is not a forward contract merchant within the meaning of the U.S. Bankruptcy Code.

Randall (Randy) E. Harrison
Senior Vice President and CEO
West Region

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1155 Perimeter Center West, Atlanta, Georgia 30338-5416
T 678 579 3610 F 678 579 5444 E randy.harrison@mirant.com

CONFIDENTIAL

April 24, 2001

Susan Weber, Chief Counsel
California Department of Water Resources
1416 9th Street
Sacramento, CA 95814

MIRANT

RE: Letter Agreement for Transactions under WSPP Agreement

Dear Ms. Weber:

The purpose of this Letter Agreement is to establish agreement between Mirant Americas Energy Marketing, LP ("Mirant") and California Department of Water Resources ("CDWR") regarding all transactions entered under the Western Systems Power Pool Agreement ("WSPP Agreement") effective February 1, 2001, as it may be amended from time to time.

Upon full execution of this Letter Agreement, each Confirmation Agreement (whether written or oral) for transactions agreed to under all of the terms and conditions of the WSPP Agreement shall be deemed to include the provisions outlined in the enclosed Attachment A, unless a party specifies otherwise at the time the transaction is entered into.

Please have an authorized representative of your company sign below indicating your concurrence. If you have any questions concerning this Letter Agreement, please contact Sonnet C. Edmonds, Assistant General Counsel for the Americas Group, at 678.579.5119.

Sincerely,


Randy Harrison

Acknowledged and agreed:

Signature: 

Name: PETER S. GARRIS

Title: CHIEF WATER + POWER Dispatcher

Date: 5/10/01

Enclosure

CONFIDENTIAL

**ATTACHMENT A
ATTACHMENT TO WSPP CONFIRMATIONS**

The obligation of the California Department of Water Resources (the "Department") to make payments hereunder shall be limited solely to the Department of Water Resources Electric Power Fund established by Section 80200 of the Water Code (the "Fund"). No liens on or pledges or assignments of the Fund are granted hereunder. Any liability of the Department arising in connection with this Confirmation or any claim based thereon or respect thereto, including, but not limited to, any Termination Payment arising as the result of any breach or Event of Default under this Confirmation, and any other payment obligation or liability of or judgement against the Department hereunder, shall be satisfied solely from the Fund. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA ARE OR MAY BE PLEDGED FOR ANY PAYMENT UNDER THIS CONFIRMATION. Revenues and assets of the State Water Resources Development System shall not be liable for or available to make any payments or satisfy any obligation arising under this Confirmation. Section 27 of the WSPP Agreement shall not apply to either party to the extent it would require either party to provide a letter of credit, cash prepayment or posting of other collateral. For clarification purposes, one party may request the other party to provide forms of assurances under Section 27 other than the posting of collateral.

It is to be understood that, because of the administrative burden and delays associated with such requirements, the Parties would not enter into this Confirmation if the provisions of the Government Code and the Public Contracts Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements and prompt payment requirements would apply to or be required to be incorporated in this Confirmation. Accordingly, pursuant to Section 80014(b) of the Water Code, the Department has determined that it would be detrimental to accomplishing the purposes of Division 27 (commencing with Section 80000) of the Water Code to make such provisions applicable to this Confirmation and that such provisions and requirements are therefore not applicable to or incorporated in this Confirmation.

The parties shall only be obligated to indemnify one another in connection with the transaction to the extent permitted by law. No rights shall be waived by the execution hereof.

It is to be understood that this Confirmation and all other Confirmations for the Fund shall be treated as a separate and distinct agreement from Confirmations with respect to the State Water Resources Development System. All of the provisions of the WSPP Agreement shall apply separately to Confirmations pertaining to the Fund and those pertaining to the State Water Resources Development System; any Event of Default with respect to Confirmations pertaining to the Fund will not cause an Event of Default with respect to the State Water Resources Development System, and vice versa; Confirmations with respect to the Fund shall not be netted against Confirmations with respect to the State Water Resources Development System.

Except as provided herein the Western Systems Power Pool Agreement, as amended and supplemented from time to time (the "WSPP Agreement"), is incorporated herein by reference.